

ORDINANCE NO. 1707

AN ORDINANCE OF THE LODI CITY COUNCIL ADDING CHAPTER
15.68 TO THE CITY OF LODI MUNICIPAL CODE BY ESTABLISHING
DEVELOPMENT FEES PURSUANT TO THE SAN JOAQUIN
COUNTY MULTI-SPECIES HABITAT CONSERVATION AND
OPEN SPACE PLAN (SJMSCP)

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI, AS FOLLOWS:

SECTION 1. AMENDMENT OF CODE

Chapter 15.68 of the Lodi Municipal Code is hereby added to read as follows:

SECTION 15.68.010 PURPOSE AND INTENT

In order to implement the goals and objectives of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP), and to mitigate the cumulative impacts of new development on undeveloped lands within the City of Lodi and in San Joaquin County, the establishment of preserve lands will be necessary to compensate for impacts to threatened, endangered, rare and unlisted SJMSCP Covered Species and other wildlife, and compensation for some non-wildlife related impacts to recreation, agriculture, scenic values and other beneficial Open Space uses.

In accordance with Sections 7.3, 7.4.1, 7.4.1.1, 7.4.1.3, and 7.4.1.4 of the SJMSCP, new development will pay approximately 60% of total SJMSCP costs with the exception of vernal pool conversions that will pay 100% of total SJMSCP costs. While those undertaking new development pursuant to the SJMSCP may opt to dedicate lands consistent with the SJMSCP preserve designs or to purchase credits from mitigation banks, most of the 60% contribution to the SJMSCP costs from new development will be in the form of development fees.

The Lodi City Council is required to establish a fee ordinance in accordance to Section 5.1.1.(b) of the SJMSCP Implementation Agreement for the purpose of collecting fee monies to finance the SJMSCP. In establishing the fee described in the following sections, the Lodi City Council has found the fee to be consistent with the SJMSCP Funding Plan as provided in Chapter 7 of the SJMSCP.

SECTION 15.68.020 SJMSCP DEVELOPMENT FEE

- a) **Establishment of Fee.** The SJMSCP Development Fee (hereinafter, the Fee) is hereby established for new development pursuant to the SJMSCP in the City of Lodi to pay for preserve lands to mitigate the cumulative impacts related to new development, including but not limited to acquisition, enhancement, restoration, maintenance, and/or operation of habitat/open space conservation lands. The fee shall not be collected until the City of Lodi, in a Council Resolution:
1. Sets forth purpose of the fee;
 2. Identifies the specific use(s) to be financed;

3. Describes how there is a reasonable relationship between the fee's use and the type of development project;
4. Determines how there is a reasonable relationship between the need for use(s) and type(s) of development project(s);
5. Determines the amount of the fee and how there is a reasonable relationship between the amount of the fee and the cost of the preserve lands or portion thereof attributable to the development; and
6. Establishes a separate development fee account into which the fees shall be placed, provides for the appropriation of the fees, and references the proposed transfer of fees to SJCOG, Inc. (a.k.a. JPA as per the SJMSCP).

- b) **Annual Adjustment.** The Fee established pursuant to a resolution shall be adjusted each year by an amount consistent with the California Construction Cost Index (CCCI) as published by the Engineering News Record and/or in conformance with Section 7.5.2.2. of the SJMSCP, and as approved by SJCOG, Inc.

The proposed fee adjustments shall be adopted by the Lodi City Council before April 30th of each year. All fee adjustments shall be effective on July 1st.

- c) **Interest.** The Fees collected shall earn interest while in possession of the City of Lodi. The interest earned shall be credited to the account in which the fee was deposited and shall be retained by the City of Lodi until transferred to SJCOG, Inc. account.
- d) **Payment of Fees.** The Fee shall be collected in accordance to Chapter 5.3.2.3 of the SJMSCP.
- e) **Use of Fee or Refund.** The Chief Financial Officer of SJCOG, Inc. shall make findings once each fiscal year with respect to any portion of any moneys, excluding letters of credit or other security instruments, that is remaining unexpended or uncommitted in the SJCOG, Inc. account for five (5) or more years after deposit of the fee, to identify the purpose to which the fee is to be put, and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged.

There shall be refunded to the then current record owner or owners of the parcels of the development project or projects on a prorated basis the unexpended or uncommitted portion of the fee, and any interest accrued thereon, for which need cannot be demonstrated pursuant to this subdivision. The refund shall be made from the unexpended or uncommitted revenues by direct payment, or by any other means consistent with the intent of this Section. If the administrative costs of refunding unexpended or uncommitted revenues pursuant to this subdivision exceed the amount to be refunded, the SJCOG, Inc. Board of Directors, after a public hearing, may determine the revenues shall be allocated for some other purpose for which the fees are collected subject to this Ordinance and which serves the project on which the fee was originally imposed.

SECTION 15.68.030 USE OF FEES

The fees paid shall be placed in a separate fee account to avoid commingling of the fees with other funds of the City of Lodi. The fees may be temporarily invested. Such fees, along with any interest earnings, shall be used solely to pay for those uses(s) described in the Resolution enacted pursuant to Section 15.68.020, which shall include the following:

1. To pay for acquisition of preserve lands (and associated transaction costs);
2. To pay for monitoring and restoration and/or enhancement of preserve lands;
3. To pay for endowment for long-term management of preserve lands; and
4. To pay for initial and on-going administration of the SJMSCP.

No less frequently than quarterly, and pursuant to Section 5.1.1(d) of the Implementation Agreement, the City of Lodi shall transfer Fees in the City of Lodi SJMSCP Development Fee Account to SJCOG, Inc. All proceeds in the SJCOG, Inc. account not immediately necessary for expenditure shall be invested in an interest bearing account.

SECTION 15.68.040 PROTEST

Any protest as to the imposition of a fee may be filed with the SJCOG, Inc.

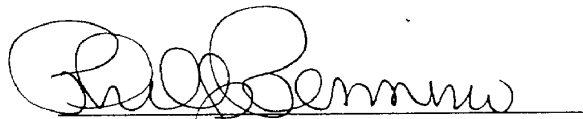
SECTION 2 EFFECTIVE DATE

This ordinance shall take effect and be in full force thirty (30) days after its passage.

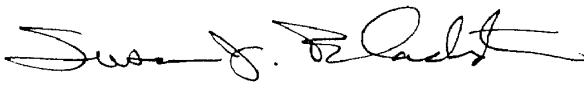
Section 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 4. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this 19th day of December, 2001


PHILLIP A. PENNINO
Mayor

Attest:


SUSAN J. BLACKSTON
City Clerk

State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1707 was introduced at a regular meeting of the City Council of the City of Lodi held November 21, 2001 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held December 19, 2001 by the following vote:


AYES: COUNCIL MEMBERS – Hitchcock, Howard, Land, Nakanishi,
and Mayor Pennino

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

I further certify that Ordinance No. 1707 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.



SUSAN J. BLACKSTON
City Clerk

Approved as to Form:



RANDALL A. HAYS
City Attorney